



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2019-0785]

RIN 1625-AA11

Regulated Navigation Areas; Harbor Entrances Along the Coast of Northern California

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the Regulated Navigation Area (RNA) at the harbor bar entrance to Crescent City Harbor. This document will update inapplicable coordinates of the area and replace with updated coordinates.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2019-0785 in the “SEARCH” box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, call or email Lieutenant Marcia Medina, Coast Guard District 11 Waterways Office; telephone 510-437-2978, email Marcia.A.Medina@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<i>Federal Register</i>
NOAA	National Oceanic and Atmospheric Administration

NPRM	Notice of proposed rulemaking
OMB	Office of Management and Budget
RNA	Regulated Navigation Area
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

On July 17, 2020, the Coast Guard published a final rule titled “Regulated Navigation Area: Harbor Entrances Along the Coast of Northern California” at 85 FR 43437 that added 33 CFR 165.1196. That rule established a RNA at the harbor entrance of Crescent City, California. Since publishing the previous rule, the Eleventh Coast Guard District was contacted by the National Oceanographic and Atmospheric Administration (NOAA) Marine Chart Division, part of the Nautical Data Branch of the Office of Coast Survey of the National Ocean Service. The NOAA Marine Chart Division brought to the Coast Guard’s attention that the geographic coordinates for the RNA at the harbor entrance of Crescent City appeared to incorrectly capture the entirety of the harbor entrance. The Coast Guard agreed, and worked with the NOAA Marine Chart Division to develop new coordinates that properly capture the entirety of the harbor entrance of Crescent City. On November 30, 2020, the Coast Guard published a notice of proposed rulemaking (NPRM) titled “Regulated Navigation Areas; Harbor Entrances Along the Coast of Northern California” (85 FR 76502). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to the update of the geographic coordinates of the harbor entrance of Crescent City. During the comment period that ended December 30, 2020, we received no comments.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Commander of the Eleventh Coast Guard District has determined that there is a need to amend the Regulated Navigation Area: Harbor

Entrances along the Coast of Northern California at 33 CFR 165.1196 to update the geographic coordinates of the harbor entrance to Crescent City.

IV. Discussion of Comments, Changes and the Rule

As noted above, we received no comments on our NPRM published on November 30, 2020.

This rule corrects the geographic coordinates listed in the RNA of the harbor entrance to Crescent City. The updated coordinates do not materially affect the size or the general geographic location of the RNA. Instead, the updated coordinates correct an issue raised by the NOAA Marine Chart Division. Specifically, the updated coordinates fully and properly capture the entirety of the harbor entrance to Crescent City.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the limited economic impact of this rule’s amendment. The final rule will merely update geographic coordinates. It has no bearing on the impact or the effective period of the current RNA.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during

rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received zero comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit through the RNA in the area represented by the updated coordinates at the harbor entrance of Crescent City may be small entities, for the reasons states in section V.A. above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a

RNA that will prohibit the transit of maritime traffic in times of unsafe conditions. It is categorically excluded from further review under paragraph L60[a] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. Amend § 165.1196 by revising paragraph (a)(3) to read as follows:

§ 165.1196 Regulated Navigation Areas; Harbor Entrances along the Coast of Northern California.

(a) ***

(3) Crescent City Harbor Entrance Channel: The navigable waters of the Crescent City Harbor Entrance Channel enclosed by the following coordinates:

- (i) $41^{\circ}43'50''\text{N}$, $124^{\circ}11'27''\text{W}$ (Point A)
- (ii) $41^{\circ}44'12''\text{N}$, $124^{\circ}11'42''\text{W}$ (Point B)
- (iii) $41^{\circ}44'26''\text{N}$, $124^{\circ}10'55''\text{W}$ (Point C)
- (iv) $41^{\circ}44'13''\text{N}$, $124^{\circ}10'20''\text{W}$ (Point D); and
- (v) Thence back to Point A, in Crescent City, CA (NAD 83).

Dated: April 19, 2021.

Brian K. Penoyer,
Rear Admiral, U.S. Coast Guard,
Commander, Coast Guard District Eleven.

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